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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,386	07/22/2003	Gregory J. Erisoty	EGJ-1-CONT	9777

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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,386

Applicant(s)

ERISOTY ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 14, 15, 19 and 20 is/are allowed.
6) ☒ Claim(s) 12, 13, 16-28, 31 and 32 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 22 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "40" has been used to designate both the curved bearing surface in Figure 6 and what appears to be the front portion of the back member in Figures 1 and 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: On page 6 lines 17-18 the phrase "pins 36" should be replaced with "pins 26".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On line 8 of claim 13, the phrase "a saw blade" is unclear. It is uncertain if this saw blade is the same as the previously disclosed saw blade on line 6 of claim 13.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 12, 13, 17-27, 31, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Duffy.

Duffy discloses the same invention including a saw frame (10) comprising an elongate back member (15 and 42), a handle portion (11), and an elongate swing arm pivotably connected to the back member at a connection point distal from the handle portion (40) so as to be pivotable between an extend position transverse to the back member (Fig. 9a) and a storage position aligned with the back member (Fig. 6), that the handle portion includes at least a first blade-engaging element (35), that the swing arm includes at least a second blade-engaging element disposed distal from the connection point (40a), that the back member includes at least a third blade-engaging element disposed proximal to the connection point (42a), that each of the blade-engaging elements being constructed to engage one end of a removably mounted saw blade

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(Figs. 9a-f), that the first, second, and third blade-engaging elements are generally coplanar and located such that, with the swing arm in the extended position, the second and third blade engaging elements are commonly disposed on an arc circumscribing the first blade-engaging element (Figs. 1 and 4), that the handle portion includes a quick-release blade tensioning mechanism operative to releasably apply, at the first blade engagement element, a selectable amount of tension to the mounted blade (26), that the frame is capable of allowing conversion without the need for adjustment of the amount of tension, between a first configuration and a second configuration (Figs. 9a and 9e), that the back member is substantially rectilinear (10), that the back member further includes an upwardly opening channel in which the swing arm is disposed in the storage position (36c), that the back member includes a downwardly extending lobe proximal to the connection point (42), that the third blade-engaging element is disposed on the lobe (42a), that the lobe includes a bearing surface that limits the pivotable movement of the swing arm (Fig. 1), with the swing arm in the extended position, a first theoretical line extending between the first and second blade engagement elements is disposed substantially parallel to an axis extending in the direction of elongation of the back member (Fig. 9a), a second theoretical line extending between the first and third blade engagement elements is angularly disposed with respect to the axis extending in the direction of elongation (Fig. 9e), a saw blade (B), that when the swing arm is in the extended position the saw blade is mounted on the first and second blade-engaging elements (Fig. 9a), that the handle portion comprises a grip portion integrally formed with the back member (14), that the third blade-engaging element is disposed in a fixed

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position on the back member (42a is clearly fixed onto back member portion 42), and that the lobe is fixedly disposed on the back member (42 is clearly fixedly disposed at 37).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duffy.

Duffy discloses the invention including that each of the blade-engaging element comprise pins projecting from orienting blade-supporting surface (35, 42a, and 41a) but fails to disclose that the pin are conical. It would have been an obvious matter of design choice to make the different portions of the pins of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

9. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duffy in view of Keymer. Duffy discloses the invention but fails to disclose that the quick-release blade-tensioning mechanism includes an operating lever pivotally connected to a lower part of the handle portion. Keymer teaches a quick-release blade-tensioning mechanism that includes an operating lever pivotally connected to a lower part of the handle portion (52). Therefore, it would have been obvious to one of ordinary skill in the

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art, at the time of the invention, to have provided Duffy with an operating lever, as taught by Keymer, to allow for the quick-release blade-tensioning mechanism to be locked into place to prevent any unwanted un-tensioning of the blade.

Allowable Subject Matter

10. Claims 14, 15, 29 and 30 are allowed. Claims 14 and 29 is allowable over the prior art because of the apparatus incorporating a handle portion with first and fourth blade-engaging elements, a swing arm with second and fifth blade-engaging elements, and a back member including third and sixth blade-engaging elements. There is no motivation to modify the handle portion, swing arm, or back member of Duffy to incorporate an additional blade-engaging element.

Response to Arguments

11. Applicant's arguments filed 06 December 2004 have been fully considered but they are not persuasive. In Duffy, item 42 is considered part of the rectilinear back member 15. In Exhibit B (combination of submitted Exhibit A and Figure 4 from Duffy), on page 9 of this Office action, using "I" to determine the position of 42a at "X" and "roughly" transferring that position to "II", it clearly shows that the second (Y) and the third (X) blade engaging elements are commonly disposed on an arc circumscribing the first blade engaging element (35). In applicant's Figure 1, the arc does not travel through the first blade-engaging element let alone make contact with it while the arc appears to make contact with the third blade engaging-element. In view of the applicant's first and third blade-engaging elements being at different distances from the arc in Figure 1, Duffy's first and third blade-engaging elements are clearly disposed

on an arc circumscribing the first blade-engagement element. Also, the saw structure of Duffy is perfectly capable of allowing a conversion without the need of adjustment. Figure 9f is capable of incorporating a blade with a different length than the blade used in Figure 9a. If Figure 9f uses a blade with a different length than the conversion from 9a to 9f is capable of not needing a tension adjustment.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 571-272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JP
January 14, 2005



Allan N. Shoap
Supervisory Patent Examiner
Group 3700

EXHIBIT B

